

Tax Type: **PROPERTY TAX**
Issue: **Charitable Ownership/Use**

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|----------------------------------|---|-------------------|-------------------------|
| SERENITY GROUP, INC. |) | | |
| Applicant |) | | |
| |) | | |
| |) | A.H. File# | 98-PT-0010 |
| |) | Docket # | 97-90-3 |
| v. |) | PIN # | 04-10-03-225-006 |
| |) | | |
| THE DEPARTMENT OF REVENUE |) | | |
| OF THE STATE OF ILLINOIS |) | | |

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, on June 19, 1998, to determine whether or not Tazewell County Parcel Index No. 04-10-03-225-006 qualified for exemption from real estate taxation for the 1997 assessment year.

Mr. Dale Christensen, secretary-treasurer of Serenity Group, Inc. (hereinafter referred to as the “Applicant”) was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant owned the parcel here in issue during the 1997 assessment year; secondly, whether the applicant held the parcel here in issue and a portion of the building thereon in trust during 1997 for the use and benefit of Pekin Serenity Alcoholic's Anonymous (hereinafter referred to as "Serenity AA"); thirdly, whether

Serenity AA is a charitable organization; and finally, whether the applicant used all or part of the building on this parcel for charitable purposes or leased or otherwise used for profit all or part of the building.

Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned this parcel during the entire 1997 assessment year. It is also determined that the applicant held the parcel here in issue and a portion of the building thereon in trust for the use and benefit of Serenity AA. It is determined that Serenity AA is a charitable organization. It is further determined that the applicant leased 44% of the building on this parcel and the land on which it stands for profit to Presidential Limousine Service. It is determined that 56% of the building on this parcel was used by Serenity AA for charitable purposes during the 1997 assessment year. It is finally determined that the 16 car parking lot located on this parcel was used by persons attending alcoholic's anonymous and cocaine anonymous meetings held by Serenity AA on this parcel.

It is therefore recommended that 44% of the building located on this parcel and the land on which it stands remain on the tax rolls during 1997 and be assessed to the applicant the owner thereof. Finally, it is recommended that the remainder of Tazewell County Parcel Index No. 04-10-03-225-006 and 56% of the building thereon be exempt from real estate taxation for the 1997 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that this parcel did not qualify for exemption for the 1997 assessment year, was established by the admission in evidence of Department's Exhibit Nos. 1 through 6A.

2. On June 6, 1997, the Tazewell County Board of Review transmitted to the Department an Application for Property Tax Exemption To Board of Review concerning the parcel here in issue for the 1997 assessment year. (Dept. Ex. No. 2)

3. On January 15, 1998, the Department advised the applicant that it was denying the exemption of this parcel and the building thereon because this parcel was not in exempt ownership and not in exempt use. (Dept. Ex. No. 3)

4. By a letter dated January 21, 1998, a member of the applicant requested a formal hearing in this matter. (Dept. Ex. No. 4)

5. The hearing in this matter, conducted on June 19, 1998, was held pursuant to that request. (Dept. Ex. No. 5)

6. At the pre-trial conference in this matter held on May 1, 1998, the Administrative Law Judge advised the persons present on behalf of the applicant, including Mr. Christensen, that it would be appropriate for the applicant to be represented by counsel. At the hearing in this matter, Mr. Christensen recalled that conversation and advised that the applicant wished to proceed without legal counsel. (Tr. p. 8)

7. The applicant acquired the parcel here in issue and the building thereon by a warranty deed dated July 26, 1996. The applicant rented the building on this parcel for about a month before it acquired the property because it had been required to vacate the building it had formerly owned. (Dept. Ex. No. 2A, Tr. p. 10)

8. The applicant was incorporated on October 13, 1989, pursuant to the General Not For Profit Corporation Act of Illinois for the following purposes:

To provide a permanent meeting place for Alcoholics Anonymous members to gather socially outside of the A.A. group meetings

9. The applicant, Serenity Group, Inc. was organized to provide a building where Serenity AA could hold Alcoholic's Anonymous (hereinafter referred to as "AA") and Cocaine Anonymous (hereinafter referred to as "CA") meetings. (Tr. p. 14)

10. The building on this parcel, other than the garage area, was only used by Serenity AA for AA meetings, CA meetings, and two potlucks per year. The two potlucks were social activities for the persons and their families who attended the AA and CA meetings. (Tr. pp. 14 & 15)

11. Every week during 1997, Serenity AA held two AA meetings on Sunday, three AA meetings on Monday, two AA meetings and one CA meeting on Tuesday, three AA meetings on Wednesday including a young people's meeting, two AA and one CA meeting on Thursday, four AA meetings on Friday including a midnight meeting, and three AA meetings on Saturday including a midnight meeting. All of these meetings were held in the building on this parcel. (Tr. pp. 11 & 12)

12. The building on this parcel contains a garage area, restrooms, and three meeting rooms. All three of the meeting rooms are used for AA or CA meetings. Frequently, an AA or CA meeting will be divided between two rooms, one room for smokers and another room for non-smokers. Also, if a large group of persons attend a particular meeting, all three meeting rooms may be used. (Tr. pp. 15 & 16, Dept. Ex. 2F)

13. There is a chairperson for each meeting. The chairperson, in addition to chairing the meeting, is also responsible to be at the building on this parcel one-hour before the meeting to open the doors, make coffee, and make sure the place is ready for the meeting. (Tr. pp. 12 & 13)

14. The AA meetings and CA meetings last from one to two hours depending on the size of the meeting. There is a reading from AA or CA literature followed by an open discussion. (Tr. p. 13)

15. During a meeting the persons present pass a donation basket. The suggested donation is one dollar to help the applicant defray the building costs as well as to provide supplies for the AA and CA meetings. If a person cannot afford to pay they understand that they will not be turned away because they don't have money to put in the basket. (Tr. pp. 13 & 14)

16. More and more young people are attending AA meetings. As a general rule, these young people have little or no money and are not in a position to contribute when they attend the meetings. (Tr. p. 17)

17. When a new person begins coming to AA meetings they are assigned a sponsor. A sponsor is a person who has been coming to AA meetings for a number of years. It is recommended that a new person attend three to five AA meetings per week. (Tr. pp. 17 & 18)

18. Mr. Christensen stated that he has been in the AA program for 13 years and he personally attends four to five AA meetings per week. (Tr. pp. 17 & 18)

19. Some of the persons who attend Serenity AA or CA meetings do so because they have been convicted of alcohol or drug related crimes and are required by the courts to attend. Tazwood Center which has an intense alcohol rehabilitation program sends its patients to Serenity AA meetings. Pekin Hospital brings people in need of AA programs down for some of the AA meetings. Also, Proctor Hospital sends people in its alcohol rehabilitation unit to Serenity AA meetings. (Tr. pp. 18-20)

20. While the by-laws of the applicant refer to dues there are in fact no dues assessed or collected from any of the members of the applicant. (Tr. p. 14)

21. I take Administrative Notice of the Department's decision in Docket No. 90-90-28, in which the Department determined that the building which was previously owned by the applicant was held in trust by the applicant for the use and benefit of Serenity AA. That decision also concluded that Serenity AA was a charitable organization.

22. The dimensions of the building on this parcel are 72 feet by 54 feet. This building contains 3,888 square feet. During 1997, the applicant leased the portion of the building identified as the garage which measures 24 feet by 72 feet to Presidential Limousine Service for \$180.00 per month. The leased area contains 1,728 square feet. The leased portion contains 44% of the total square feet in the building. (Tr. pp. 10 & 11, Dept. Ex. No. 2F)

23. In front of the building on this parcel is a paved parking area which can be used by a total of 16 cars. The parking area is used by persons attending AA and CA meetings. (Tr. p. 10)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts

and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992).

Concerning charitable organizations, 35 ILCS 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States....

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

The evidence has established that the applicant owns the parcel here in issue for the use and benefit of Serenity AA. Serenity AA uses 56% of the building thereon to hold numerous AA and CA meetings. Serenity AA also holds two potlucks annually for its participants and their families. The Illinois Courts have held that property will qualify for exemption where it is held by an organization in trust for the use and benefit of an exempt organization. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). *See also* Community Mental Health Council, Inc. v. Department of Revenue, 186 Ill.App.3d 73 (1st Dist. 1989) In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court

laid down six guidelines to be used in determining whether or not an organization is charitable. Those six guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in its charter; (4) charity is dispensed to all who need and apply for it; (5) no obstacles are placed in the way of those seeking the benefits; and (6) the primary use of the property is for charitable purposes. It has been determined that Serenity AA met all six guidelines hereinbefore set forth during 1997, in its use of the 56% of the building where AA and CA meetings were held.

I also take Administrative Notice of the Department's decision in Docket No. 90-90-28, in which the Department determined that the building which was previously owned by the applicant was held in trust by the applicant for the use and benefit of Serenity AA. That decision also concluded that Serenity AA was a charitable organization. *See also Northwest Suburban Fellowship, Inc. v. Department of Revenue*, 298 Ill.App.3d 880 (1st Dist. 1998) in which the Court determined that an Alcoholic's Anonymous organization similar to Serenity AA was a charitable organization.

Concerning parking lots, 35 **ILCS** 200/15-125 exempts certain property from taxation as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

The evidence in this case showed that the 16-car parking lot on this parcel was used during 1997 by persons attending the AA and CA meetings conducted by Serenity AA in the building on this parcel.

I therefore conclude that the applicant owned the parcel here in issue and the building thereon during the entire 1997 assessment year. I further conclude that the applicant held a portion of the parcel here in issue and the building thereon in trust for the use and benefit of

Serenity AA. I also conclude that Serenity AA is a charitable organization. The applicant, I conclude, leased 44% of the building on this parcel and the land on which this 44% is located to Presidential Limousine Service for profit. The applicant, I conclude, held 56% of the building on this parcel in trust for the use and benefit of Serenity AA, which used said 56% for charitable purposes. Finally, I conclude that the 16-car parking lot located on this parcel was used by persons attending AA and CA meetings held by Serenity AA on this parcel.

It is therefore recommended that 44% of the building located on this parcel and the land on which it stands remain on the tax rolls during 1997 and be assessed to the applicant, Serenity Group, Inc., the owner thereof. Finally, it is recommended that the remainder of Tazewell County Parcel Index No. 04-10-03-225-006 and 56% of the building located thereon be exempt from real estate taxation for the 1997 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
February 26, 1999